GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri C. Shivaji Naik S/o Topu Naik, Gulbarga District, against the proceedings Rc.No. MC3/1448/1998, dt.07.06.2006 of the District Collector, Anantapur under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

TRIBAL WELFARE (CV.2) DEPARTMENT

G.O.MS.No. 6 Dated: 30-01-2018

Read the following:

1. Proceedings of the District Collector, Anantapur District. Rc.No.MC3/1448/1998, dt.07.06.2006.
2. Appeal petition from Sri C. Shivaji Naik S/o Topu Naik, Gulbarga District, before the then M(SW), dt.21.03.2007.
3. Govt. Memo No.1967/CV.2/2007, dated:17.04.2007.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No.6789/2007, dated 03.04.2007.
5. Letter from the District Collector, Anantapur, No.Rc.MC3/1448/1998, dt.31.05.2007.
6. Govt. Memo No.1967/CV.2/2007, dated:13.07.2007.
7. From the Director of Tribal Welfare, AP, Hyd., Lr.Rc.No. 4045/2007/TRI/VC6, dated 08.07.2008.
8. Govt. Letter No.1967/CV.2/2007, dated 17.08.2008 &10.06.2010.
9. Govt. Memo No.1967/CV.2/2007, dated:30.08.2013, 14.10.2014, 24.11.2014, 23.02.2015, 02.04.2015, 06.10.2017, 01.11.2017 & 28.11.2017.
10. Written arguments field by appellant before the Hon'ble M(SWE&TWE) on 21.10.2017.

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ORDER:

In the reference 1st read above, the District Collector, Anantapur has issued orders canceling the ST –Sugali Caste Certificate obtained from the then Tahsildar, Puttaparthi in the year 1984 by Sri C. Shivaji Naik S/o Topu Naik.

2. In the reference 2nd read above, Sri C. Shivaji Naik S/o Topu Naik, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Anantapur. After examining the said Appeal Petition, Government have admitted the Appeal Petition and stay rejected by the Government and called for parawise remarks and connected records from the District Collector, Anantapur in the reference 3rd read above.

3. In the reference 4th read above, Sri C. Shivaji Naik S/o Topu Naik has filed W.P.No.6789/2007 before the Hon'ble High Court of Andhra Pradesh, Hyderabad, against the proceedings of the District Collector, Anantapur, dated 07.06.2006. The Hon'ble High Court of Andhra Pradesh, Hyderabad while disposing the said W.P. on 03.04.2007 has directed the Government to consider and dispose the appeal in accordance with law, as expeditiously as possible, preferably, within a period of (8) weeks from the date of receipt of the order. But, due to several administrative difficulties the matter could not be disposed off within the time limit as directed by the Hon'ble High Court in the said W.P., however, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

4. In the reference 5th read above, the District Collector, Anantapur has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri C. Shivaji Naik S/o Topu Naik.

[P.T.O]

5. The said appeal petition has been posted for hearing on 23.07.2017, argued the case and as per the orders of the then Minister (TW& RIAD) , the Director, TCR & TI, Hyderabad was requested to conduct detailed enquiry on the ST-Sugali social status of Sri C. Shivaji Naik and furnish enquiry report to Government for disposal of the appeal pending before the Government in reference 6th read above. In the reference 7th read above, the Director of Tribal Welfare, A.P., Hyderabad has furnished the enquiry report on the ST- Sugali community claim of Sri Shivaji Naik for taking necessary action in the matter. Again the said appeal petition has been posted for hearing on 23.08.2008, 25.06.2010, 12.09.2013, 25.10.2014, 13.12.2014, 28.02.2015, 18.04.2015, 21.10.2017, 18.11.2017 and finally on 16.12.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 8th to 9th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. In the reference 10th read above, the appellant has filed written arguments before the appellate authority i.e. Hon'ble M(SWE&TWE) in support of his ST-Sugali community claim.

6. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Anantapur and proceedings of the District Collector, Anantapur, dated 07.06.2006, the Appellate Authority has observed that:

I. The Appellant in his grounds has stated that his parents and ancestors belong to the Caste of Sugali of ST Community in Ananthapur area of Andhra Pradesh and he studied from 1st class to 10th class in the Government Practising School, Gulbarga upto year 1982, in the TC issued to him on 2.6.1992 and also admission register of the school, his caste and community mentioned as Lambani belonging to SC community, the same caste is categorized as ST of Ananthapur area of AP with the name Sugali. Further he has stated that the enquiry conducted by the M.R.O., Mudigubba in the matter, behind the back of the appellant and the cancellation of the appellant's caste certificate was in violation of principles of natural justice as the District Authority without even giving any notice and opportunity to the appellant.

II. The District Level Scrutiny Committee has observed that the appellant belongs to Anantapur area of Andhra Pradesh, he himself committed that he studied from 1st to 10th class in Karnataka state only, it clearly shows that he never studied at Ananthapur District of AP, as per educational TC of Karnataka State he belongs to Lambani caste which comes under SC, and it is not correct that Lambani caste is categorized as ST in Anantapur area, in ST list of AP there is no Lambani caste at all. Hence it is an evidence that he belongs to Lambani caste of Karnataka State and obtained certificate as Sugali under ST by misrepresenting the facts though he doesn't belong to podarallapalli village of Ananthapur District. Further, the MRO, Mudigubba caused enquiry behind his back, as the appellant is not at all belong to Podarallapalli Village, it could not be possible to enquire the appellant, the District Level Scrutiny Committee to which the matter was referred has given number of opportunities to prove himself that he belongs to Podarallapalli Village of Mudigubba Mandal, Anantapur District as the burden of proof of caste claim lies on the claimant according to section 6 of the Act 16 of 1993, but he never proved at any point of time that he belongs to Podarallapalli Village and belongs Sugalli tribe. Further, he has not produced any

[Contd..on P.3]

relevant documents in support of his community claim except the copies of school records of Karnataka state and a certificate of the Sarpanch, Podarallapalli Village which is a fraudulent one, and the copy of caste certificate obtained from the then Tahsildar, Puttaparthi by misrepresentation of the facts. Further, the statements of his close relatives were recorded behind his back, as there are no such persons who are said to be the close relatives of the appellant. The enquiry officer has enquired in detail and obtained statements from the persons who were having the same names of the said relatives of the appellant along with the statement of the Sarpanch of Podarapalli Village. Finally, the DLSC has recommended that the appellant have obtained fraudulent caste certificate as "ST-Sugali".

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The appellate authority is observed that during the course of hearing of the case that the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Sugali community which was identified as Schedule Tribe and he worked as employee of Railway in the post reserved for ST and he retired from Railway and get pension till his death and his mother also got family pension till his death and as such he also belongs to ST-Sugali Stand on that the impugned order shall be cancelled. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence that his father belongs to ST Community. It is further brought to the notice that the certificate earlier issued to the individual in a routine manner and the same was cancelled after conducing detailed and thorough enquiry into the caste status of the individual. That as per the Act that the burden of proving that the appellant belongs to particular caste shall be on the appellant and it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant, except relaying the evidence filed before the lower authority, failed to produce any additional material more particularly the evidence of his father caste and his service in Railway for re-appreciation of the case on hand. It is also observed that in his oral statement has stated that his father belongs to ST-Sugali community and based on his ST-Sugali caste certificate he worked as Railway employee but he has not produced any documents to prove the said statement. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the finding of the DLSC or the learned District Collector, Ananthapur District.

7. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri C. Shivaji Naik S/o Topu Naik, does not deserve any interference. Hence, Proceedings of the District Collector, Anantapur issued vide Rc.No. MC3/1448/1998, dt.07.06.2006, is hereby upheld and the Appeal Petition filed by Sri C. Shivaji Naik S/o Topu Naik, is hereby dismissed and the Certificate issued by the then Tahsildar, Puttaparthi deemed to be cancelled and the interim stay granted earlier stands vacated.

[Contd..on P.4]

8. The District Collector, Anantapur is directed to take necessary consequential action in the matter.

9. The records (containing Rc.No.MC3/1448/1998, dt.07.06.2006, pages: 1-202) received from the District Collector, Anantapur through in the reference 5th read above, are returned herewith in original to the District Collector, Anantapur and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANCHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Ananthapur.
(with original records) (BY RPAD)

Sri C. Sivajee Naik,
S/o Topu Naik,
Nalwar Station (PO),
Chittapur (Taluk),
Gulbarga (District)
Pin Code: 585218.

Sri V.Venkateswara Rao, Advocate,
Flat No.G-04, A Block,
Surya Towers, Bhavani Nagar, Malkajagiri,
Lane adjacent to Vaishnavi Shopping Mall,
Hyderabad-500047.
Cell:9849256652.

The Divisional Personnel Officer, (Personal Branch),
Central Railway,
Solapur (Maharastra).

Copy to :

The Director, TCR& TI, A.P., Amaravathi
The P.S. to Hon'ble Minister(SWE&TWE)
The P.S. to Principal Secretary(SW&TW)

// FORWARDED BY ORDER //

SECTION OFFICER